



## FAIR POLITICAL PRACTICES COMMISSION

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April 22, 2009

Kathleen Zelenski  
Compliance Officer  
Los Angeles County Fire Department  
1320 North Eastern Avenue, Room 160  
Los Angeles, California 90063

**RE: Your Request for Informal Assistance**  
**Our File No. I-09-066**

Dear Ms. Zelenski:

This letter responds to your request for advice regarding the gift provisions of the Political Reform Act (the "Act").<sup>1</sup> This letter is based on the facts presented; the Fair Political Practices Commission (the "Commission") does not act as a finder of fact when it renders assistance. (*In re Oglesby* (1975) 1 FPPC Ops. 71.) Because your request seeks general information, we are providing informal assistance.<sup>2</sup>

### QUESTION

What are the reporting responsibilities of an agency upon receipt of tickets received as donations to that agency?

### CONCLUSION

Because the agency has not established a distribution method for the tickets pursuant to Regulation 18944.1<sup>3</sup> the agency has no public reporting responsibilities under the Act. However, absent agency compliance with Regulation 18944.1, as described herein, individual agency employees may have to report the tickets as gifts and, if so, the agency is an intermediary under

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<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

<sup>2</sup> Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; regulation 18329(c)(3), copy enclosed).

<sup>3</sup> Repealed and readopted, effective February 7, 2009.

the Act and must provide those employees with certain information, including information about the source of the gifts.

### **FACTS**

The Los Angeles County Fire Department (the "Fire Department") receives donations throughout the year. These donations are reported to the Los Angeles County Board of Supervisors quarterly and to the Auditor-Controller annually. The Board of Supervisors posts all county departments' donations reports on their website.

Some of the donations received by the Fire Department are tickets to sporting events, performances, etc. Currently, the Fire Department reports these tickets as donations to the Department and follows the procedure listed above. With the recent revision of Regulation 18944.1 regarding the receipt of tickets or passes to events, you are requesting advice regarding the Fire Department's reporting responsibilities upon receipt of such tickets, since these tickets are to the Fire Department and not to public officials.

For example, last fiscal year the Fire Department received the following tickets to events: (1) Staples Center, East-West Bank Classis Semi-Finals tickets (\$6,075); (2) Staples Center, Los Angeles Kings vs. Dallas Stars Hockey tickets (\$9,250); (3) Disneyland Resort, Kings vs. Edmonton Oilers Hockey tickets (\$6,000); and (4) Barry's Ticket Service, Pantages Theatre tickets to "Wicked" (\$2,400).

The tickets were distributed to department personnel on a first-come-first-served basis. The tickets are usually given to the Fire Department employees in appreciation for their public service. The Sheriff and City Police departments also receive such tickets.

Some of the recipients of the tickets may be employees who have designated positions on the Fire Department's conflict-of-interest code and who complete the annual Form 700 Statement of Economic Interest.

### **ANALYSIS**

Recently, the Commission adopted amendments to Regulation 18944.1 (copy enclosed). This regulation addresses tickets or passes "to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose" that are provided to agency employees by a public agency. It provides a method whereby the agency may set up, and follow, a procedure under which the tickets or passes will not be considered gifts, either because they are treated as income or because, pursuant to the terms of the regulation, the "official will meet the burden under Section 82028 that equal or greater value has been provided in exchange therefor . . . ."

However, in the situation you describe above, this regulation would not be applicable because, among other things, the Fire Department has not established a distribution method for the tickets that accomplishes a public purpose of the agency.

Under the facts you have presented, tickets are received by the Fire Department from outside sources. These tickets are then made available to Fire Department employees on a first-come-first-served basis. As such, the Fire Department merely serves as a depository where its employees can pick up tickets from outside sources who wish to “show their appreciation for public service” to these employees. As such, the tickets are gifts from the source of the ticket to the employees who receive them, and they would need to be reported as such by employees who have conflict-of-interest code reporting obligations. In addition, receipt of these gifts would be subject to the calendar year \$420 limit.

Finally, because the Fire Department is acting as an intermediary for these gifts between the gift donors and the Fire Department officials who are the recipients, the department must comply with the Act’s requirements applicable to intermediaries. Specifically, the department must disclose to the recipient of the gift, for each gift of \$50 or more the recipient receives in a calendar month, the full name, street address, and business activity of the actual donor so that any designated employee who is required to report the gift can properly report the true source of the gift on his or her Statement of Economic Interests. (See Section 87313 and Regulation 18945.3.)<sup>4</sup>

If you have any other questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Scott Hallabrin  
General Counsel

By: William J. Lenkeit  
Senior Counsel, Legal Division

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Enclosures

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<sup>4</sup> If the Fire Department official receiving the gift is required to file a Statement of Economic Interests under Section 87200, the department must provide the same information for any gift of \$50 in a calendar year. (Section 87210 and Regulation 18945.3.)